IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2234 OF 2005

Pradeep Balkrishna Gawade ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.A.P. Mundargi with Mr. Ganesh Gole, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

5th April 2005

P.C.:

. Heard Counsel for the parties. The Applicant apprehends arrest in connection with CR.No.II-72/2005 registered with Panvel Town Police Station for offence punishable under section 504, 506-II of the Indian Penal Code read with section 3(1)(x) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act. If the offence referable to section 3(1)(x) of the Atrocities Act is made out, then it is not open for this Court to entertain prayer for anticipatory bail in view of the express provisions in the Act in that behalf. The question, however, is whether the offence as alleged is substantiated by the prosecution. The complainant, who was working as subordinate of the Applicant, has alleged that the Applicant made offending utterances attracting the provisions of the Atrocities Act. The complainant has stated that other five persons were present at the relevant time. The investigating officer has recorded statements of those five persons. Even on accepting the said statements as it is, the allegation of the complainant of the Applicant having made the offending remarks is not supported by these witnesses. They have only mentioned that some quarrel took place between the complainant and the Applicant, but there is nothing to indicate that the Applicant made the utterances as alleged. Moreover, merely because the complainant states that such utterances have been

made, that does not mean that the offence has been comitted. In the complaint, it is also alleged that the Applicant has threatened the complainant at the point of knife. Even this version is not supported by the witnesses named by the complainant himself. It is obvious that the complainant has made exaggarated allegations against the Applicant out of ulterior motive. In the circumstances, this application succeeds on the following terms.

(A) The Applicant is granted anticipatory bail in connection with CR.No.II-72/2005 registered with Panvel Town Police Station on executing personal bond in the sum of Rs.10,000/- (Rupees Ten thousand only) with one or two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall co-operate for

the purpose of investigation and report to the investigating officer as and when called upon.

(D) This relief of anticipatory bail shall enure in favour of the Applicant till the filing of the charge sheet. It will be open to the Applicant to approach the appropriate Court for such relief, as may be advised.

. It is made clear that the Court below will decide the proceedings before it on its own merits in accordance with law uninfluenced by the observations made in this order, which are made only for the limited purpose of considering the prayer for anticipatory bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)